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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 Cesar Caballero et al.,
12 Plaintiffs,
13 v.
14 Michael Williams et al.,
15 Defendants.
No. 2:21-cv-00638-KJM-CKD
ORDER

17 After reviewing the record, the court finds insufficient evidence plaintiffs effected service
18 on any of the defendants. In California, service by email may be proper but only if a court finds
19 "it is reasonably calculated to give actual notice to the party to be served." *See Cisco Sys. v.*
20 *Shaitor*, No. 18-00480, 2018 U.S. Dist. LEXIS 106893, at *8 (N.D. Cal. June 25, 2018). The
21 court cannot conclude on this record that is so.

22 The only piece of evidence is that a non-party, counsel for the proposed intervenors, filed
23 a document alleging he effected service by email on two of the five defendants. *See* Affidavit of
24 Service, ECF No. 21. Assuming without deciding it is appropriate for a non-party to effect
25 service on behalf of plaintiff even when the party is adverse to the plaintiff, there is insufficient
26 evidence on this record to find the service was reasonably calculated to give notice to all parties.
27 *See Cisco Sys. v. Shaitor*, 2018 U.S. Dist. LEXIS 106893, at *8 (N.D. Cal. June 25, 2018);
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1 Amend. Mot. Intervene, Mem. P&A at 2, ECF No. 9 (“Williams, Webb and Caballero are all
2 trespassers to the D-Q lands and have no possessory interest in the lands.”).

3 If a defendant is not served within 90 days after the complaint is filed, the court must
4 dismiss the action without prejudice absent a showing of good cause. Fed. R. Civ. P. 4(m); *see*
5 *also Jamul Action Comm. v. Chaudhuri*, No. 13-01920, 2015 WL 6744531, at *2–4 (E.D. Cal.
6 Nov. 4, 2015). Here, the complaint was filed on April 8, 2021. Compl., ECF No. 1. As it has
7 been more than 90 days since the filing of the complaint, plaintiffs are **ordered to show cause**
8 within 14 days of the date of this order why the claims against all defendants should not be
9 dismissed under Rule 4(m).

10 IT IS SO ORDERED.

11 DATED: August 10, 2021.


12 CHIEF UNITED STATES DISTRICT JUDGE